692 567 Hambly and Childs seem to suggest that any case might be referred to the chief for his decision: "Even a slave used to have rights of appeal to the king if he were starved or beaten without cause".(1) Neither describes the composition of the courts or the mechanism of appeal.

Legal procedure

695 Childs writes rather obscurely "Cases might be settled by ordeal or by decision of the king, and there was therefore room for appeal and retrial".(2)

One kind of ordeal, the *ombulungu* or poison ordeal, is described by Hambly:(3) It was used (only?) when the accused was thought to have committed murder by poison or sorcery. (If weapons were used, the accuser, usually a relative of the deceased, had the right to kill the murderer with the same kind of weapon.) If a woman were accused in this way, her son or brother would take her place in the poison ordeal.

The complainant in a suit is called *ombile*, the defendant *ovilue*, and the witness *uvangi*. Cushman states that no evidence is ever ruled out of court, and that each witness is required to give a complete account of all his dealings with the persons concerned in the case, so that the court may know on which side he is likely to be prejudiced.(4) Hambly(5) adds that formerly a witness had to make recompense to the man about whom he had told a lie, and probably received a beating as well. According to Cushman an Umbundu court may find that both parties are to blame in a case, and may fine or penalise both according to the degree of guilt. "If the chief is not satisfied, he simply gets up and leaves the court circle. This indicates that the evidence has not been satisfactory and more must be presented."(6)

672 In the absence of the delinquent, responsibility for crime was formerly transferred to a relative. If a thief escaped, responsibility would rest with a brother, a father, or a son. The mother's brother was often held responsible for the misdeeds of his sister's children, and would be expected to pay their debts.(7)

Punishments

● 685 A thief was punished by a beating and a fine paid to the persons from whom he had stolen.(8) An habitual thief was sold into slavery. He might be redeemed, but only if the authorities considered his reformation complete.(9) Murder was punishable by death, although this penalty might 682 be avoided by a heavy fine paid to the relatives, usually the mother, 684 mother's brother, or sister's son of the deceased. If the victim were of the royal family, the murderer might be put to death after the payment of the fine. The punishment for women murderers was the same as for men.(10) In adultery the woman was not punished, but a man was punished in the same way as a murderer, i.e. by death or a heavy fine. (Hambly gives the fine

(1) Hambly, op.cit., p.201.
(2) 1949, p.21.
(3) op.cit., p.203.
(4) 1944, pp.38-9.
(5) op.cit., p.201.
(6) 1944, p.39.
(7) Hambly, op.cit., p.201.
(8) Ibid., p.202.
(9) Cushman, 1944, p.39.
(10) Hambly, op.cit., pp.202-3.

672 bility of women is mentioned in describing the penalties for adultery and theft.

562 681 The penalties for offences against the king were undoubtedly more severe than those imposed for the same offences against a commoner. Ngonga says that the punishments for crimes against a chief or medicine-man were, and are now, the same as the penalties for offences against any other person. It seems, however, that if the chief were a very powerful man, he could claim penalties which would have been appropriate for offences against a king.

685 A thief was punished by beating, in addition to which he would have to pay a fine to the people from whom he had stolen, but he rarely escaped without the beating. The thief would be beaten just as much for stealing one animal as he would for stealing many. If a woman stole from her neighbor's garden, those who caught her would tie her and take her to her husband, who would pay compensation and then beat her. A child caught stealing would be taken to the maternal uncle or to his own father. If a woman stole from relations she would probably have no punishment other than a beating. Her husband would have to compensate the relations. Stealing honey from hives is an offence that is punished according to the general laws relating to theft.

696 If a man was sentenced to a death penalty, or to a beating, there was an official appointed by the king or by the chief to see the sentence carried out. This representative was called *ukuenje welombe* which means "the servant, or minister, of the court."

682 Ngonga described the penalty for murder saying, "It was a terrible thing they did to the murderer. A tight triangle of wood was fastened on to his neck by a peg and to this a cord was attached so that he was suspended to the roof with his feet barely touching the ground. In some instances his head was placed through a hole in the door of his house while his body was inside the hut. He had very little food or water and people threw things at him. He was kept tied up for a month to see whether he could pay something. Suppose he could not pay, and nobody would pay for him, he was taken outside the village where his head was cut off. If he had many possessions, he said on the first day, 'If you will take this thing off my neck I will pay two oxen and two slaves.' The payment would be made, not to the wife or children of the murdered man, but to the brother of the mother of the murdered man, or to the mother of the murdered man, or to the son of a sister of the victim. If the murderer agreed to make the payment the people kept him tied up until the